Abstract Proceedings of the Travancore Legislative Council.

The Council met again in the Dewan's room, Public Offices, at 7 A. M. on Saturday, the 15th December 1894.

PRESENT :—

The Dewan ... *Presiding.*
M. R. Ry. Krishnaswamy Rao Avergal.
Mr. F. Watts.
M. R. Ry. V. Nagam Iyer Avergal.
M. R. Ry. P. Thanu Pillay Avergal.
M. R. Ry. Rama Vurma Avergal, Rajah of Perapanaud.
M. R. Ry. Ramanatha Rao Avergal.
M. R. Ry. A. M. Muthunayagom Pillay Avergal.

Mr. Ramanatha Rao proposed that in section 17 (a) the words "Illom, Mana or Matom" within brackets be omitted.

Mr. Muthunayagom Pillay seconded the motion.

Carried.

The Perapanad Rajah said with reference to section 17 (c) that "in default of payment of renewal fees at the time they become due, interest shall be charged on the arrears only at the rate of 6 per cent per annum when they were payable in money, but when in kind, only at 10 per cent.

Not being seconded the proposition was lost.

Mr. Muthunayagom Pillay moved that in the place of section 21 (b) the following be substituted "In the case of other lands, in addition to the foregoing grounds :—

(4) that the number of trees in the holding on which pattom is assessable has increased

(5) that there has been a substantial rise in the average local prices of the produce of those trees during the currency of the previous kanapattom."

In seconding the above motion, Mr. Thanu Pillay observed, that Mr. Muthunayagom Pillay's amendment was to substitute clause (b) as it stood in the Bill originally introduced, for the modified clause put in by the Select Committee and he thought that the clause as originally framed was more precise and workable than its substitute.

Carried.

Mr. Krishnaswamy Rao proposed that original clause 5 of section 21 be modified thus :—"(6) that after this Regulation comes into force the kudyan erects factories shops or other buildings not being erections referred to in clause (e) of Explanation 1 to clause 13 of section 3, and the annual rental value of the holding has thereby increased."

Mr. Watts seconded the motion.

Carried.

Regarding the last para but 2 of section 21, Mr. Thanu Pillay said "It will be observed that this para as it stood in the original Bill has been considerably modified by the Select Committee. My own views did not command the assent of the majority in the Committee and I gave in. But as I feel that the matter is one of great importance, I would venture to say a few words in explanation of my position. All are agreed that when improvement has been effected by and at the cost of the kudiyan, he should be given credit for such improvement. The difference is in the mode of apportioning the benefit of the improvement. The section as it stands provides for the cost of the improvement being estimated and interest on the estimated outlay being made the kudiyan's share of the result of the improvement. I doubt whether, regard being had to the dearth of capital and the unenterprising character of the rural classes, the above is a full and fair return for the capital invested by the kudiyan on improvements and whether it would be a sufficient inducement to the kudiyan to make such investments. My contention is that the standard by which the return to the kudiyan should be gauged is not the estimated capital invested by him in making an improvement, but the addition which such improvement has made to the letting value of the land. I need hardly point out that the result of an improvement does not always vary directly with or in any definite ratio to the capital expended, and the difference in many cases is due to the difference in the

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skill, intelligence and exertion of the person who makes the improvement. The inherent qualities of the soil constitute, no doubt, a factor, but, except in the case of virgin soils, this factor may practically be left out of account. I see some of my friends seem to doubt whether skill and intelligence can be taken into account in calculating the value of improvements. I answer that they can and they ought to. They are no less instruments of production than land and capital. 'The very greatest of the instruments of production.....are the brain and the hand of individual men.' The differential result or productive power of different applications of the same amount of capital being granted, it follows that the rough and ready rule adopted in the amended Bill is not calculated to stimulate enterprise and economy. The Famine Commission after an elaborate investigation came to the conclusion that one of the chief reasons for the disinclination of land-holders to invest money on improvement of the land is 'their doubt whether at the expiration of a term of settlement, they will be allowed to enjoy the whole profits of such an improvement or whether it will form the occasion for an enhancement of their assessment.' The normal interest on the money or rather the interest provided for the kanom is certainly different from 'the whole profits of the improvement.' I would in this connection quote the following words from the speech of His Excellency the Viceroy in connection with the Land Improvement Loans Bill which was considered at the meeting of the Imperial Legislative Council on the 10th October 1883. 'I should like to say a few words as regards my own opinion on this subject. Sir Stuart Bayley has said that there are two theories on this question—the English theory and the Indian theory—and he defined the English theory to be that a tenant who made improvements in the land which he occupied ought, if he were removed from his farm, to receive compensation based upon the addition which his improvement had made to the letting value of the land. I very much wish that I could say that that is the recognised English theory upon this question. It is my own theory unquestionably and it is a theory which has been partially and in the end, I fear, imperfectly adopted by Parliament at home; but it is a theory only held by a certain number of persons and there is a wholly antagonistic theory very prevalent among other persons in England, namely, that the tenant should only receive, on quitting his holding, repayment of the actual outlay he may have made on his improvements.' The Council will be pleased to see from the foregoing that the distinction I have been advocating is not a fanciful or airy one. As I however find that the Council is not disposed to modify the section as amended by the Select Committee I do not press the point."

Mr. Watts moved that the last para of section 21 be modified thus:—"Where enhancement is allowed on the ground mentioned in clause (6) the rental value shall be the annual rental of the building according to the rates prevailing in the neighbourhood less interest at 6 per cent per annum on the value of such holding and the cost of maintenance."

Mr. Muthunayagom Pillay seconded the motion.

Carried.

Mr. Ramanatha Rao moved that in clause, (a) of section 22; 'one-third of the gross produce' be substituted for 'one-fourth of the gross produce.'

Not being seconded, the motion was lost.

Mr. Watts moved that the words 'fruit-bearing' before 'trees' in line 3 clause (b) of section 22 be omitted.

Mr. Thanu Pillay seconded the motion.

Carried.

The Rajah of Perapanad moved that in the same clause the words 'or vines' be omitted.

Mr. Watts seconded the motion.

Carried.

Mr. Muthunayagom Pillay proposed that the following be substituted for clause (b) section 22.

"The Pauttom on other lands shall, in like manner, not exceed one-fourth of the estimated average annual yield of the trees growing thereon, commuted into money at the average market rate, the average being based upon the market price of the different kinds of staple produce for 12 years preceding. If no such trees exist, the Pauttom shall be taken to be equal to the Payattupauttom prevailing in the Proverthy."

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Mr. Thanu Pillay seconded the motion.

Carried.

Mr. Krishnaswamy Rao moved that Section 22 (c) be divided into two clauses thus:—

"(c) The Pattom on buildings shall be one-half of the rental value fixed under the last para of the preceding section.

"(d) The Pattom so assessed shall be subject to deduction on account of interest on the Kanom money, but not on account of existing Sircar tax or customary dues and renewal fees which shall be paid by the Kudiyan out of his share of the produce."

Mr. Watts seconded the motion.

Carried.

Mr. Thanu Pillay said with reference to the proviso to Section 22 of the Bill before the Council—

"I think the proviso is objectionable, as it does not hold the balance equally between Jenmies and Kudyans. After having laid down elaborate rules for assessing Pattom, we say that the existing rates shall not be disturbed provided they are above the statutory rate. We have no information now as to the number and proportion of Kanapattoms in which the existing rates of Michavarom are above the statutory rate nor how the former rates compare with the latter. Suppose that in the majority of cases the existing rates are high—so high as to eat up all the profits of the Kudyan. In this case the proviso would either pauperize the Kudyans or compel them to abandon their holdings. I see that one of my friends seems to think that so long as the Kudyan has the right to surrender his holding, the proviso would not cause real hardship. He seems to think further that the parties having originally contracted with their eyes open, there is no hardship in compelling them to carry out the terms of the contract. I would point out to my friend that the law of landlord and tenant has never been and never will be a law of free contract. The landlord practically dictates his terms to the tenant and the latter must either accept them or leave, which means that he should tear himself away from a place sanctified and endeared by many associations—a place which probably contains the sacred remains of his ancestors and where he has established his family deity and built his tarawad house. I think therefore that the right to surrender the holding would not mitigate the hardship arising from the high rate of Michavarom fixed in the existing lease."

Mr. K. Krishnaswamy Rao remarked:—

"In framing this proviso, the Select Committee followed the principles enunciated by the Government in the Settlement Proclamation, regarding the Sircar Otti lands. The Kanapattom tenure is analogous to the Sircar Otti tenure. If the Government is not bound to grant the abatement of the existing rates, on the new principles of Settlement, how can we ask a comparatively petty landlord, I mean Jenmi, to grant abatement of the existing Michavarams on grounds other than those mentioned in section 24. The effect of allowing the abatement of existing rates on the sole ground that they are in excess of $\frac{1}{4}$ of the gross produce which we have now fixed as the maximum rent payable to a Jenmi would be a frightful increase in litigation, and disturbance of the existing state of things acquiesced in by both the parties for a number of years."

After some further discussion, the President proposed that the following proviso be substituted for that in the Bill.

"Provided that the existing Pattom shall not be disturbed for the reason only of its being above or below the proportion fixed under this section."

Mr. Watts seconded the motion.

Carried—Mr. Krishnaswamy Rao dissenting.

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The Council met again at 2 P. M.

PRESENT :—

The Dewan ... ... *Presiding.*
M. R. Ry. Krishnaswamy Rao Avergal.
Mr. F. Watts.
M. R. Ry. V. Nagam Iyer Avergal.
M. R. Ry. P. Thanu Pillay Avergal.
M. R. Ry. Rama Vurma Avergal, Raja of Perapanad.
M. R. Ry. R. Ramanatha Rao Avergal.
M. R. Ry. A. M. Muthunayagom Pillay Avergal.

Mr. Krishnaswamy Rao moved that the 2nd proviso to section 22 be made section 24 A with the words " Provided further that " in the 1st line omitted and the words ' or abatement ' added after ' enhancement ' in line 2.

Mr. Ramanatha Rao seconded the motion.

Carried.

Mr. Nagam Iyer moved that clause (a) of section 24 be modified thus :—

" (a) that the area of his holding has been diminished not by his neglect, but by the action of the sea, river or lake or like causes."

Mr. Ramanatha Rao seconded the motion.

Carried.

Mr. Thanu Pillay moved that the word ' assessable ' be substituted for ' fruit-bearing ' in clause (d) of section 24.

Mr. Watts seconded the motion.

Carried.

Mr. Krishnaswamy Rao moved that a new clause (e) to the same section be added " (e) that the rate of the current pattom of his holding is above the prevailing rate for similar lands in the village in which it is situated."

Mr. Nagam Iyer seconded the motion.

Carried.

Mr. Muthunayagam Pillay moved that the words " from the date of the order by the Munsiff to make good the same " be added at the end of clause (2) of section 29.

Mr. Ramanatha Rao seconded the motion.

Carried.

Mr. Ramanatha Rao moved that section 40 be modified thus :—

" Notwithstanding anything contained in the foregoing, the provisions of this Regulation shall not apply to any Kanapattom executed since the 25th day of Karkadagom 1042, which expressly provides for redemption."

Mr. Muthunayagam Pillay seconded the motion.

Carried.

Mr. Thanu Pillay moved that the Explanation to section 40 be made section 41 with the words " the tenancy is terminable or otherwise " substituted for ' Kanapattom lease is determinable or otherwise ' in lines 2 and 3 thereof.

Mr. Nagam Iyer seconded the motion.

Carried.

Mr. Muthunayagam Pillay moved that a new section (42) be added as follows :—

" Notwithstanding anything contained in the foregoing, the provisions of this Regulation shall not apply to any Kudiyan who or whose predecessor in interest has held the holding for more than fifty years preceding the date of this Regulation without paying Michavarom and other dues or without taking any renewal within the said period of 50 years. Nor shall the provisions apply to any right declared, established or already acquired by a Jenmi or Kudiyan at the date this Regulation comes into force.

" *Explanation.*—If any time for redemption has been specially provided for, the fifty years shall be calculated from the date on which the stipulated term expires."

Mr. Thanu Pillay seconded the motion.

Carried.

Resolved that the Bill as amended be read again on a future day of which previous notice shall be given.

SHUNGRASOOBYER,
President.

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